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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/992,414	11/16/2001	Gil Gavriel Dudkiewicz	051448.0206	1945
7590 09/21/2007 David A. Blumenthal Foley & Lardner 2029 Century Park East - Suite 3500 Los Angeles, CA 90067-3021			EXAMINER SALCE, JASON P	
			ART UNIT 2623	PAPER NUMBER
			MAIL DATE 09/21/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/992,414	DUDKIEWICZ ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jason P. Salce	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 28 June 2007.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 12-14, 16-18, 20-23, 25-27 and 29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-14, 16-18, 20-23, 25-27 and 29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed 6/28/2007 have been fully considered but they are not persuasive.

Applicant argues that Ellis neither teaches nor suggests a hierarchy comprising at least a set of top-level categories, respective sets of first level-subcategories each corresponding to and encompassed by a top level category, and respective sets of second level sub-categories each corresponding to and encompassed by a first level sub-category.

Applicant further supports the argument by stating that "Frasier" and "Friends" are not any type of category. The examiner disagrees and notes that "Frasier" and "Friends" clearly reside under the top level category of "Series", therefore Ellis clearly teaches, not only a top-level category, but also first level sub-categories that are encompassed by the top-level category "Series".

Applicant further supports the argument by stating that there are no second level sub-categories. Applicant states that "Strong Like" and "Weak Like" not any type of category. The examiner disagrees and notes that these second level sub-categories represent categories that define how much a user preferences a first-level category that encompasses the second level sub-category. The examiner further notes that the claims are broad and do not make the distinction between applicants hierarchy in Figure 8 and Ellis's hierarchy in Figure 13a.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 12-14, 16-17, 21-23 and 25-26 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Ellis et al. (U.S. Patent No. 7,065,709).

Referring to claim 12, Ellis discloses a method for creating a viewer profile used for determining programming events of interest to a viewer (see Figure 13A and Column 14, Lines 35-37).

Ellis also discloses receiving user navigation commands for navigation among predefined subject matter categories (see Column 15, Lines 5-9 and Figures 13a-13f).

Ellis also discloses that the subject matter represented by each of said predefined categories is defined such that the predefined categories together form a hierarchy comprising at least a set of top level categories, respective sets of first level sub-categories each corresponding to and encompassed by a top level category, and respective sets of second level sub-categories each corresponding to and encompassed by a first level sub-category (see again Figure 13a for sets of top level categories (see Figures 13a-13b for the top level categories "Series" and "Genre"), sets of first level sub-categories corresponding to and encompassed by a top level category

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(see Figure 13a for the first level sub-categories "Frasier" and "Friends") and sets of second level sub-categories corresponding to and encompassed by a first level sub-categories (see Figure 13a for the second level sub-categories "Strong Like" or "Weak Like").

Ellis further discloses that said navigation is performed in accordance with said hierarchy (see Figure 13a and Column 15, Lines 5-20).

Ellis further discloses receiving input from the user indicating that a predefined category of the hierarchy to which the user has navigated using said navigation commands is to be added to or deleted from a viewer profile that represents subject matter of interest to the viewer (see Column 15, Lines 32-34).

Ellis further discloses receiving qualified keyword input from the user (see Figure 14 for selecting a qualified keyword from a set of keywords) associating a keyword supplied by the user ("narrow", "wide" or "moderate") with a specific category of the category hierarchy to indicate that the keyword describes subject matter of interest to the viewer only when that subject matter is also described by the category associated with the qualified keyword (see Column 15, Line 60 through Column 16, Line 67 for selecting a scope/qualified keyword for each profile, where the qualified keyword selected by the user associates a keyword (narrow) with a specific category of the category hierarchy (the comedy genre) to indicate that the keyword describes subject matter of interest to the viewer (My Stepmother is an Alien) only when that subject matter is also described by the category associated with the qualified keyword (only when a user sets a profile to narrow)).

Ellis further discloses storing data representing a plurality of categories indicated by the user as representing subject matter of interest to the viewer and qualified keywords specified by the user in the viewer profile in a computer readable medium (see Column 6, Lines 17-25).

Referring to claim 13, Ellis discloses receiving input from a user specifying a keyword representing subject matter of interest to the viewer (again see Figure 14 for the user selecting the keyword "moderate", which when assigned by the viewer to a specific profile, becomes a qualified keyword, and further represents the subject matter of interest to present to a user in the electronic program guide screen customized by the user's preference profile).

Referring to claim 14, see the rejection of claim 13 and further note that the keyword "moderate" represents a score indicating an amount of viewer interest in the subject matter represented by the keyword ("moderate"). See Column 16, Lines 20-39 for the "moderate" representing the amount of viewer interest in certain portions of the viewer's profile.

Referring to claim 16, Ellis discloses that said input indicates that a predefined category represents subject matter of interest to the viewer comprises a category preference score indicating an amount of viewer interest in subject matter represented

by the category (see Figure 13a for a predefined category "Strong Like" indicating an amount of viewer interest in subject matter represented by the category).

Referring to claim 17, Ellis discloses receiving input from a user specifying a priority of said viewer profile relative to other viewer profiles when multiple viewer profiles are used for determining programming events of interest (see Figure 14 for assigning different priorities/scope to different profiles).

Referring to claims 21-23 and 25-26, see the rejection of claims 12-14 and 16-17, respectively.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 20 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al. (U.S. Patent No. 7,065,709) in view of Ellis et al. (U.S. Patent Application Publication 2005/0251827).

Referring to claim 20, Ellis ('709 patent) discloses all of the limitations in claim 1, but fails to teach receiving input from a user specifying times of day during which the viewer profile is to be used for identifying programming events of interest:

Ellis ('827 Publication) discloses receiving input from a user specifying times of day during which the viewer profile is to be used for identifying programming events of interest (see Paragraph 0105).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the profile creation tool, as taught by Ellis ('709 patent), using the viewer profile time of day option, as taught by Ellis ('827 Publication), for the purpose of provide a user the ability to use multiple sets of parental control settings profiles (see Paragraph 0105 of Ellis ('827 Publication)) in order to prevent children from watching unauthorized video programs.

Referring to claim 29, see the rejection of claim 20.

Claims 18 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al. (U.S. Patent No. 7,065,709) in view of Ellis et al. (U.S. Patent Application Publication 2005/0251827) in further view of Knudson et al. (U.S. Patent Application Publication 2005/0204387).

Referring to claim 18, Ellis ('709 patent) discloses all of the limitations in claim 1, but fails to teach receiving input from a user specifying times of day during which the viewer profile is to be used for identifying programming events of interest.

Ellis ('827 Publication) discloses receiving input from a user specifying times of day during which the viewer profile is to be used for identifying programming events of interest (see Paragraph 0105).



At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the profile creation tool, as taught by Ellis ('709 patent), using the viewer profile time of day option, as taught by Ellis ('827 Publication), for the purpose of provide a user the ability to use multiple sets of parental control settings profiles (see Paragraph 0105 of Ellis ('827 Publication)) in order to prevent children from watching unauthorized video programs.

Although both Ellis references teach defining a profile and assigning the profile to be used at a specified time period, however both Ellis references fail to teach the user specifying a maximum number of alerts to be generated.

Knudson discloses that the user can specify a maximum number of alerts to be generated (see Paragraph 0205).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the profile creation tool and profile time definition tool, as taught by the Ellis references, to utilize the option to allow a user to specify the maximum number of alerts to be generated, as taught by Knudson, for the purpose preventing the receiver memory to become saturated/full with a large portion of reminders, thereby negatively impacting system performance.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Salce whose telephone number is (571) 272-7301. The examiner can normally be reached on M-F 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jason P Salce  
Primary Examiner  
Art Unit 2623

September 17, 2007

**JASON SALCE**  
**PRIMARY PATENT EXAMINER**

A handwritten signature in black ink, appearing to read "Jason Salce", written in a cursive style.